

Wilcut, Lars

From: John Hall <jhall@hall-associates.com>
Sent: Tuesday, October 28, 2014 8:13 PM
To: Hisel-Mccoy, Sara
Cc: Southerland, Elizabeth; Wilcut, Lars; Rider, Trish; Phillips, Laura; Kibler, Virginia; Huff, Lisa; Chris Hornback; Bill Hall; ASaiyid@bna.com; David LaRoss
Subject: RE: H&A Attendance at the Ammonia Criteria Meeting to Discuss Criteria Implementation
Attachments: AMMONIA STAKEHOLDERS MEETING_Agenda_10-10-14 (2).docx; Ammonia Participants List_FINAL.pdf

Ms. Hisel-McCoy

Just a short follow up now that I have a laptop available. As I noted in my opening email, in my 35 years of practice I have never seen EPA hold such a meeting regarding 304(a) criteria implementation and exclude the public from even listening in. Apparently, you did not understand that this might be an indication that the agency is doing something not within normal public participation procedures. I will make a few short points – please read this carefully given the fact that you apparently failed to grasp the seriousness of the situation in my last email:

First, your characterization of this meeting is simply false, this is not a NACWA meeting, it is a two day stakeholder meeting where it is intended for EPA to address key 2013 Ammonia Criteria implementation issues. (See meeting agenda entitled “**AMMONIA CRITERIA IMPLEMENTATION STAKEHOLDERS MEETING**”). EPA has a prominent role in the entire meeting including introductions, background presentations etc. EPA has 7 staff dedicated to attend, including the EPA consultants that assisted in developing the criteria who would not be attending absent EPA’s authorization. (See attendance list) Thus your offer to hold a separate meeting is a chimera as one could hardly expect EPA to devote a similar level of effort to briefing others.

Second, the meeting is to be held at EPA and with the key EPA OST representatives because they expect answers to the key questions presented in the agenda. Your staff and consultants are clearly participating for this very reason. Thus, Lars statement to Bill Hall that “EPA’s role is limited to providing meeting space.” is, in a word, misplaced.

Third, this invitation only stakeholders meeting violates open meetings laws and related CWA public participation provisions regardless of where it is held if it is intended to be some type of explanation and clarification on how the 2013 ammonia criteria are to be implemented and what kind of studies are acceptable to EPA to avoid application of the document (the primary purpose of the meeting, of course). Of course NACWA or anyone else can ask for a private meeting to discuss such issues. ACWA could also pick up the phone at any time to talk about its concerns. However when clearly branded a multiday “stakeholder meeting” to address issues of national importance (incidentally who at EPA granted NACWA the sole right to represent municipal interests and why are small community, the press and environmental interests excluded from attendance – aren’t they stakeholders also?) EPA has crossed the line from holding a simple meeting to providing exclusive resources and preferential treatment to a non-governmental entity. In short, you are violating the law.

Finally, **please be assured that we will file suit against the agency shortly if the meeting with EPA moves forward and the public and press are not allowed to attend this meeting.** This is not a function of where the meeting is held as we now understand that some have sought to relocate the meeting to avoid the open meeting law concerns – again, a rather substantial misunderstanding of the law. Obviously if you are being truthful that EPA is not required for this meeting to be productive (i.e., you are only providing the meeting room), then we presume the parties will have their meeting and no open meeting laws will be violated.

Regards

John C. Hall
Hall & Associates
1620 I Street, NW, Suite 701
Washington, DC 20006
Phone: 202-463-1166
Fax: 202-463-4207
E-Mail: jhall@hall-associates.com

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From: Hisel-McCoy, Sara [mailto:Hisel-McCoy.Sara@epa.gov]
Sent: Tuesday, October 28, 2014 5:49 PM
To: John Hall
Cc: Southerland, Elizabeth; Wilcut, Lars; Rider, Trish; Phillips, Laura; Kibler, Virginia; Huff, Lisa; Chris Hornback; Bill Hall
Subject: FW: H&A Attendance at the Ammonia Criteria Meeting to Discuss Criteria Implementation

Mr. Hall,

Thank you for your email. I would like to clarify with you that the ammonia implementation workshop to which you refer is NACWA's meeting. Some EPA staff have been invited to attend NACWA's meeting as participants. EPA is not holding this meeting and has not been involved in the planning of the meeting. NACWA is in charge of the agenda and participant list for this meeting.

If you would like EPA to participate in one of your meetings to discuss ammonia implementation, please let us know the time and location and we will do our best to accommodate your request.

Sara Hisel-McCoy, Director
Standards and Health Protection Division
Office of Water, Office of Science and Technology
US Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460
Tel: 202-566-1649
EPA West 6105D

From: John Hall <jhall@hall-associates.com>
Sent: Monday, October 27, 2014 9:52:13 PM
To: Southerland, Elizabeth; Wilcut, Lars; Rider, Trish; Phillips, Laura; Kibler, Virginia; Huff, Lisa
Cc: Bill Hall; Chris Hornback
Subject: RE: H&A Attendance at the Ammonia Criteria Meeting to Discuss Criteria Implementation

Dear Betsy and the other USEPA Ammonia Criteria Implementation Stakeholders:

H&A was recently informed that EPA will be hosting a two day technical workshop/stakeholders meeting at EPA offices in Crystal City to review critical implementation issues associated with the Agency's 2013 ammonia criteria update. As EPA is well aware, the ammonia criteria are among the most influential criteria ever issued by EPA since every municipal operation in the country discharges ammonia. Given our long involvement in the development and implementation of ammonia criteria (our inquiry and analysis lead to EPA's decision to issue updated criteria in 1999, including averaging period alterations) as well as extensive comments provided on the draft 2009 document (which we believe were addressed reasonably), we asked to be able to listen in on the discussion. This seemed like a simple request given that all such prior EPA meetings of this nature (including several recent Office of Water "listening sessions" and, historically – criteria Forums) have been open to the public, at a minimum, to listen to the discussion. (Please note: Normally, such Section 304(a) criteria discussions are held in public forums. For reasons that are not apparent, this one was not openly advertised, rather, a select number of individuals were chosen to participate in the discussion. This is the first such restricted EPA briefing/workshop (multi day!!) that I can recall in my 35 years of addressing water quality issues.)

Initially, NACWA indicated that we should call EPA to be put on the attendee list for admission to the building. Bill Hall promptly contacted Lars Wilcut to that end. However, we were informed by NACWA around 4 PM today that some stakeholders are concerned that the presence of even a single technical person from H&A would limit EPA's ability to respond with its position to the detailed technical issues presented in the multi-day, agenda. I quote " ***One of our sponsors has expressed significant concern that Bill's presence will negatively impact our discussion and diminish the value of the meeting for all participants. They are concerned that EPA will not be as forthcoming in the discussion, resulting in a less productive conversation.***" Of course, the "concerned sponsor" was never identified and one can only speculate to the attribution of this statement or the chain of events that led to it occurring. NACWA went as far as to indicate that, if H&A came to EPA on Wednesday, someone might bar H&A from entering the EPA conference room – which given the federal location, could only be EPA.

Quite frankly, I found it astounding that someone would think EPA would alter its position on issues of science, simply based on our presence. Likewise, the thought that EPA would hold an invitation only "stakeholder" meeting and seek to bar the public from even hearing the discussion is anathema to the open government mantra of the Obama administration. In any event, this type of rumor and innuendo created by third-parties regarding EPA's expected response to public participation is quite an unhealthy and immature thing. It injures the reputation of the agency and makes it appear as if the agency is providing preferential treatment and special information access to some in the regulated community – which has not been my experience. Nonetheless, this type of misinformation needs to be directly addressed and immediately refuted. Moreover, if the public is to be prohibited (and we trust that is not the case), the meeting should be rescheduled to public forum locations and appropriately advertised so that all interested parties may hear the Agency's responses first hand in accordance with the requirements of Section 101(e), 304(a) and the various open meeting and public participation laws regulating federal agency information dissemination and advisory councils.

In the meanwhile, given our desire to listen in to the criteria implementation discussion, we request the Agency's confirmation on two issues prior to the meeting on Wednesday morning in Crystal City:

1. That EPA has no objection and will not preclude H&A from attending the discussion to listen in and
2. That the stakeholder assertion, passed on by NACWA, that EPA would alter its technical responses based on who was in the room (whether H&A or some other party) is categorically untrue.

Thank you for your prompt attention to this inquiry and confirmation, in advance, that H&A may send a technical person (Bill Hall) to listen in to the workshop/stakeholder discussions regarding 2013 ammonia criteria implementation issues.

Sincerely
John Hall

John C. Hall

Hall & Associates
1620 I Street, NW, Suite 701
Washington, DC 20006
Phone: 202-463-1166
Fax: 202-463-4207
E-Mail: jhall@hall-associates.com

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-----Original Message-----

From: Chris Hornback [<mailto:CHornback@NACWA.ORG>]
Sent: Friday, October 24, 2014 12:54 PM
To: John Hall
Cc: Bill Hall
Subject: RE: Ammonia Criteria Meeting

As discussed, here is the participants list and agenda for next week's meeting.

I presume you'll be reaching out to one or all of the EPA contacts on this list, but our main contact is Lars Wilcut. EPA donated the space so we could save money on renting a meeting room, but otherwise they have not been involved with the planning of the meeting.

-----Original Message-----

From: John Hall [<mailto:jhall@hall-associates.com>]
Sent: Friday, October 24, 2014 11:53 AM
To: Chris Hornback
Cc: Bill Hall
Subject: [GRAYMAIL] RE: Ammonia Criteria Meeting

Chris

We understand that the meeting is at EPA in Crystal City, which I presume means one of the large hearing rooms that are used to public sessions. I understand that the entire world can't show up, but Bill knows more about this than anyone at NACWA and I'm surprised that no one contacted us to sit in given our long history on successfully addressing ammonia issues.

How does this sound - Bill will go over and if there are seats available for him to sit and listen, then he will stay in that capacity - if not, he will leave. I would also like to get in touch with the EPA contact for this meeting. Can you please tell us who that is?

Thanks
John

John C. Hall
Hall & Associates
1620 I Street, NW, Suite 701

Washington, DC 20006
Phone: 202-463-1166
Fax: 202-463-4207
E-Mail: jhall@hall-associates.com

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-----Original Message-----

From: Chris Hornback [mailto:CHornback@NACWA.ORG]
Sent: Friday, October 24, 2014 11:30 AM
To: John Hall
Cc: Bill Hall
Subject: RE: Ammonia Criteria Meeting

John, Bill -

We've been working for weeks on the invite list for the meeting with our sponsors (WEF, WERF, ACWA, and NACWA) as well as with EPA to ensure we have the right balance of utilities, state reps, EPA staff and experts from the mussel community. We have not opened attendance more broadly given our extremely limited space/budget and our commitment to have equal representation from each of the perspectives.

There are numerous experts, member representatives, state regulators and others that we were not able to accommodate at this meeting. We are developing proceedings that will be available shortly after the meeting and I suspect that there will be future meetings and more opportunities for participation.

We missed you and your crew yesterday at the NJ Integrated Planning Workshop. We had a great discussion...lots of challenges ahead for the utilities in New Jersey.

-Chris

-----Original Message-----

From: John Hall [mailto:jhall@hall-associates.com]
Sent: Friday, October 24, 2014 10:22 AM
To: Chris Hornback
Cc: Bill Hall
Subject: [GRAYMAIL] FW: Ammonia Criteria Meeting

Chris

I understand that there will be a meeting with EPA on the new ammonia criteria implementation issues. We would like to attend since we have had a major role in commenting and amending this criteria over the years. Since Bill produced the last round detailed technical comments related the mussel issues and related implementation concerns so we would want him to attend.

Could you let us know about the specifics?

Thanks

John

John C. Hall
Hall & Associates
1620 I Street, NW, Suite 701
Washington, DC 20006
Phone: 202-463-1166
Fax: 202-463-4207
E-Mail: jhall@hall-associates.com

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-----Original Message-----

From: Scott Hall [mailto:shall@environcorp.com]
Sent: Friday, October 24, 2014 10:15 AM
To: John Hall
Subject: Ammonia Ctieria Meeting

John:

See Claudio's feedback below, he's asking that you contact Chris Hornback at NACWA. Meeting is the 29th & 30th in Crystal City at EPA.

Let me know if you can make it.

Scott

Scott Hall | Manager, Ecotoxicology
ENVIRON International Corporation
201 Summit View Drive - Suite 300
Brentwood, TN 37027
T: +1 615 277 7512 | F: +1 615 377 4976 | M: +1 615 566 1347 shall@environcorp.com

-----Original Message-----

From: Claudio Ternieden [mailto:cternieden@wef.org]
Sent: Friday, October 24, 2014 8:58 AM
To: Scott Hall
Subject: Re: another Attendee for Meeting?

:) I know John! The focus is technical but have him ask Chris Hornback at NACWA who has the lead!

Thanks Scott!
Claudio

Sent via BlackBerry by AT&T

From: Scott Hall <shall@environcorp.com>
Date: Fri, 24 Oct 2014 12:31:22 +0000
To: cternieden@wef.org<cternieden@wef.org>
Subject: another Attendee for Meeting?

Claudio: An attorney in the DC area, John Hall of Hall & Associates, was curious as to whether he could attend the ammonia criteria implementation meeting. Can I put him in touch with you?

Scott

[cid:image001.jpg@01CFEF5C.823AE040]<<http://www.environcorp.com/>>
Scott Hall | Manager, Ecotoxicology
ENVIRON International Corporation
201 Summit View Drive - Suite 300
Brentwood, TN 37027
T: +1 615 277 7512 | F: +1 615 377 4976 | M: +1 615 566 1347 shall@environcorp.com

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